IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021
CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26605 of 2021
and
W.M.P.No.28058 of 2021

(Through Video Conferencing)

M/s.Kaveri Home Needs,
Represented by its Proprietor,
No.5/320-B, Thirugnanasambandar Street,
State Bank Colony,
Salem – 636 004. ...Petitioner

Vs

The State Tax Officer,
Commercial Tax Department,
Arisipalayam Circle,
Salem District. ...Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent herein in TIN:33282843056/2006-2007 dated 27.12.2019 and quashing the same as illegal.

For Petitioner : Mr.P.Mohanasundaram
For Respondent : Mr.Richardson Wilson
Additional Government Pleader

ORDER

Mr.Richardson Wilson, learned Additional Government Pleader takes notice on behalf of the respondent.

2. The petitioner has challenged the impugned Assessment Order dated 27.12.2019 for the Assessment Year 2006-2007 under the provisions of the TNGST Act, 1959 from 01.04.2006 up to 31.12.2006 and from 01.01.2007 up to 31.03.2007 under the provisions of the TNVAT Act, 2006 which came into force on 01.01.2007.

3. The petitioner has paid tax at 1% under the provisions of Section 3H of the TNGST Act, 1959 and at 0.5% under the provisions of Section 3(4) of the TNVAT Act, 2006 as it stood up to 02.12.2008.

4. It is the case of the petitioner that the petitioner is entitled to have the entire turn over assessed at 0.5% in terms of the aforesaid provisions and the subsequent notification vide Notification No.II(1)/CTR(a-1)/2007 G.O.Ms.No.2 dated 01.01.2007 wherein, the rate at 1% was reduced to 0.5% for the purpose of Section 3(4) of the TNVAT Act, 2006.

5. A reading of the impugned order shows that the petitioner was issued with notices dated 27.03.2014, 23.12.2015, 18.12.2017 and 03.05.2019. Despite the same, the petitioner has not filed any reply for the past eight years. After the impugned order has been passed, now, the petitioner has rushed to this Court stating that the objection of rate of tax at 12.5% in the impugned order is erroneous and contrary to Section 3(4) of the TNVAT Act, 2006.

6. The petitioner is not entitled to invoke jurisdiction of this Court as the petitioner has failed to give a reply which was elementary on the part of the petitioner to have file a reply notices when there is a proposal for revising the assessment.

7. Considering the fact that the petitioner has shown scant regards of the assessment proceedings under the TNVAT Act, 2006, I do not find any merits in the present writ petition. Further, this writ petition has been filed for an order which came to be passed in the year 2019, which is exactly two years after the orders was passed. I do not find any reasons for entertaining this writ petition belatedly.

8. Liberty is however given to the petitioner to file a statutory appeal before the Appellate Commissioner within a period of forty five days from the date of receipt of a copy of this order against the impugned order.

9. In case such appeal is filed within such time, the Appellate Commissioner shall entertain the appeal and dispose the same in accordance with law and on merits. Needless to state, the petitioner shall pre-deposit the amounts that are required to be pre-deposited under the respective Acts.

10. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To

The State Tax Officer,
Commercial Tax Department,
Arisipalayam Circle,
Salem District.

+1 CC to Mr.M.Sivanandam, Advocate sr 67027.

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SRA(CO)
SP(03/01/2022)